

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

TERRY JACKSON, d.b.a. W.S.A.E. &
W.C. LLC,

Plaintiff,

v.

CITY OF BOZEMAN, and GREG
SULLIVAN, City Attorney,

Defendants.

CV-18-43-BU-BMM-JCL

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Plaintiff Terry Jackson, appearing pro se, filed a proposed Complaint (Doc. 2) on July 9, 2019. The Court advised Jackson that under Federal Rule of Civil Procedure 4(m), he was required to effect service by January 7, 2019. The December 6, 2018 Order also established February 26, 2019 as the deadline for filing the joint discovery plan, preliminary pretrial statements, and statement of stipulated facts.

The Court issued an order cautioning Jackson that his failure to either (1) effect service of process by January 7, 2019, or (2) comply with deadlines imposed by the Court, may subject this action to dismissal under authority of Fed. R. Civ. P. 4(m) and 41(b). (Doc. 15). The Court then issued an Order noting that Jackson had not filed the documents that were due from him on February 26, 2019. (Doc. 20).

The Court observed that Jackson had not filed a proof of service establishing that he had served a copy of the summons and complaint on each of the Defendants. (Doc. 20). The Court then vacated the March 5, 2019 preliminary pretrial conference. The Court ordered Jackson to file, on or before March 12, 2019, a brief showing good cause under Fed. R. Civ. P. 4(m) for his failure to serve Defendants.

Magistrate Judge Lynch determined that Jackson failed to show good cause as required pursuant to Fed. R. Civ. P. 4(m) to explain his failure to effect service of process on the Defendants. Judge Lynch entered Findings and Recommendations on March 26, 2019, and recommended that Jackson's action be dismissed without prejudice. (Doc. 28 at 3).

The Court reviews de novo Findings and Recommendations to which a party timely objected. 28 U.S.C. § 636(b)(1). The Court reviews for clear error the portions of the Findings and Recommendations to which no party has not

specifically objected. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Where a party's objections constitute perfunctory responses argued in an attempt to engage the district court in a repeat of the same arguments set forth in the original response, however, the Court will review for clear error the applicable portions of the findings and recommendations. *Rosling v. Kirkegard*, 2014 WL 693315 *3 (D. Mont. Feb. 21, 2014) (internal citations omitted).

Jackson timely filed an objection to Judge Lynch's Findings and Recommendations. (Doc. 30). These objections attempt to engage the Court in a debate of the same arguments that Judge Lynch addressed in the Findings and Recommendations. (Doc. 28). Jackson's objections simply restate what Judge Lynch already addressed and the Court finds no clear error in Judge Lynch's Findings and Recommendations. *Id.*

ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Lynch's Findings and Recommendations (Docs. 28 and 29) are **ADOPTED IN FULL**.

IT IS ORDERED that Mr. Jackson's action be **DISMISSED** without prejudice pursuant to Rule 4(m).

IT IS ORDERED that Jackson's motion requesting a deadline for serving Defendants (Doc. 26) be **DENIED** as moot.

DATED this 7th day of May, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris
United States District Court Judge